



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	Paul S. Enfield	)	Art Unit:	3627
Serial No.	09/902,923	)	Examiner	Joseph A. Fischetti
Filed:	July 10, 2001	)	Cust. No.	22931
For:	INFORMATION, DIRECTORY, LOCATION AND ORIENTATION SYSTEM FOR RETAIL STORES AND THE LIKE	)	Attorney	
		)	Ref. No.:	P113836

PAUL ENFIELD'S DECLARATION

I, Paul Enfield, having a home address of 3320 Oregon Pl., Bellingham, WA 98226 state the following:

1. I am Paul Enfield who is the inventor in the above noted U.S. Patent Application S.N. 09/902,923.

I have worked been working in the grocery business for the past forty-two years. I began working in grocery at age fourteen.

The history of my employment is as follows: From 1963 to 1965 I worked at Bajema's Market in Lynden, WA as a Sales Clerk.

From 1965 to 1975 I was employed by Safeway Stores in Oakland, CA in Assistant Management positions in four stores.

From 1975 to 1980 I was employed by Brown and Cole Stores in Ferndale, WA as Store Manager and Produce Manager.

From 1980 to 1994 I was employed by Consumers Choice in Bellingham, WA as Vice President of Operations and Store Development.

Between 1994 and 1997 I was employed by Thrifty Foods in Burlington, WA as Construction and Maintenance Director.

From 1997 to 2000 I was employed by Brown & Cole Stores in Bellingham, WA as Director as Construction and Maintenance.

From the year 2000 to 2002 I worked in Private Consulting in Grocery Design, Signage and Décor, and Business Operation.

From 2002 through 2005 I was employed (and am still employed) at Brown & Cole Stores, Bellingham, WA, as Development Director, Coordinated Design and Construction.

## 2. Background Information.

a) I have been asked by Mr. Hughes, who is the patent attorney who has prepared and filed the above noted application, to provide some additional information and comments relating to my above noted patent application, and in particular about the case study this is described in pages 40-43 of the patent application.

b) I would like to begin by recounting my participation in this case study. I have reviewed the declaration of Mr. Weber relating to this case study and other matters, and to the best of my knowledge all of the statements made by Mr. Weber are accurate and are consistent with what I know on the subjects.

c) As indicated in the declaration of Mr. Weber, the case study was conducted in the grocery supermarket in East Wenatchee, WA, and at that time I was located in Bellingham, WA, which is fair distance away from East Wenatchee. I was able to visit the East Wenatchee supermarket approximately four or five times during the case study, and when in Wenatchee, I would discuss various aspects

of the case study with Mr. Weber, and also with some of the other that were working in the store.

3. Introductory Comments on the Case Study done on the System Described in the Patent Application.

a) In conducting this case study, we were well aware of the fact that in addition to collecting accurate statistical data in the case study, it would be desirable to obtain comments from the customers in the store to see what affect this new system might have in facilitating their shopping. Accordingly, the employees in the Wenatchee store (and also Mr. Weber when he was in a position to do so) would maintain an awareness of information from the customers in the store either by way of asking (when it seemed appropriate) for their comments on this new system or simply listening to the comments which the customers volunteered.

b) As indicated in the declaration of Mr. Weber, the comments and responses of the customers gave clear indications that not only was the system well received, that it was making their task of shopping much more efficient and agreeable.

c) Also, the information in Mr. Weber's declaration regarding the new employees being able to become better acquainted with product locations in the new store more easily with the system of my patent application is in my opinion very strong evidence that the system of the patent application clearly produces this same convenience for the customers who come into the store to shop.

4. Comments on How the Case Study was Conducted.

a) With regard to the statistical data which was developed during the case study, I believe the system used and also the results of the case study are explained adequately in the text of the patent application. However, I believe a few additional comments would be in order.

b) The store in East Wenatchee in which the case study was conducted is one store among about thirty-five stores which are operated by the same owner and all of these stores use common pricing and advertised product mixes. Therefore these other thirty-four stores (along with the East Wenatchee store) provided a proper base line for measuring the statistical data that was taken.

c) When this case study was first being planned, we recognized that with the hundreds of brand name products and the many stores, it would likely be impractical to get detailed statistics on all of these products in all of the stores. However, we were able to accumulate a summary of the sales of all thirty-five stores for both of the three month periods and it is believed that this established a legitimate baseline for judging the effect in the East Wenatchee store of using the system of the present patent application. In terms of specifically tracking statistical data, we felt the more meaningful data would be the statistics of sales of the brand name products that were on the display signs in the second three months of the case study. Since the procedures followed in that case study are described fairly completely in the patent application, I won't repeat those in my declaration. However, to focus on the bottom line of what was

demonstrated on those statistics, reference is made to Table 1 which appears in Figure 16 of the drawings. It can be seen that in the second three month period when the display signs of the present invention were utilized, the sales percentage for the displayed brand name products rose from 16.9% to 24.5%. This is a rather dramatic gain of 45.1%. With regard to tracking these same brand name products in the other thirty-four stores where the signs with the brand name products were not displayed there was an increase of from 17.8% to 19.5% for a 9.4% increase. It is important to note that the only substantial marketing mix difference between the East Wenatchee store and the other 34, was the addition of the new signage.

d) One of the main things which we hoped to establish statistically is to what extent the shoppers in the store were actually paying attention to the brand name product display signs during the second three month period of the case study. As will be discussed later in the declaration, the fact that the 45% increase in sales after the brand name product displays were used demonstrates that the customers were paying attention to the brand name product signs as evidenced by actually moving on down the aisle and buying the brand name product that was displayed.

## 5. What is Achieved by the System Described in the Patent Application.

a) Let's begin by stating what this system of this patent application is not intended to achieve. There are literally thousands

of brand name food products and other related products even in a medium sized food supermarket. This system is not to identify each and every one of these food products in the store and give not only the aisle or general vicinity, but, also the precise aisle location of all of these food products. This is one of the main reasons why there is a difference (and a very significant difference) between the system of my patent application and the system shown in U.S. patent 5,297,685 (Ramey) where there is at the end of an aisle a listing of all the products in a particular aisle and also giving the precise aisle location.

b) Rather, the system of my patent application provides an improvement over the existing system that is found in most all grocery supermarkets . The typical existing system places signage at the end of the aisles (and possibly at other locations), with these being word signs designating several products or kinds of products in that aisle, recognizing that most all of the shoppers in a grocery store realize that other related products would likely be found in that same aisle or at a closer location to the products listed on the sign. The aim of the system in the present patent application is to accomplish generally this same task in a manner which is more “user friendly” in that it enables the customer to more quickly become better acquainted with the various locations in the store. The graphic representations of the display signs provides “memory hooks” so that (his/her) shopping can be made easier).

## 6. Why Using Brand Name Product Representation with the Graphics and the Packaging Produces These Benefits.

- a) The food companies already give a good deal of thought in selecting the brand name, the packaging, and the graphics to be attractive and also to attract the attention of the customers. Further, they want the graphics and packaging to be distinctive to make an imprint on a person's memory so that the customer becomes more quickly acquainted with the products. Further, many of these brand name products are advertised so that the shopper already has familiarity with the appearance these products. Beyond that, after shopping in various grocery stores and looking at the various products, the people already have familiarity with many of those brand name products along with the graphics and the packaging.
- b) Therefore, when we are showing these products as a group of brand name products with the graphics and packaging on a sign, the person is not digesting new material as to the appearance of the brand name products, but rather the customer in seeing on this sign a collage of eight to twelve brand name products with which he is already familiar. Thus he can more easily remember the grouping of the products. I could compare this to a person viewing the Mount Rushmore Monument of several presidents of the United States that are grouped together. The person is already familiar with the appearance of these presidents and the person could glance at a picture of Mt. Rushmore, and that person could turn away and almost

automatically give you the names of the presidents whose image is carved into the mountain.

7. Does the Case Study Indicate that the Shopper is Better able to Remember the Identification of Product at a Particular Location by Using the Displays of Full Brand Name Product Representations?

My analysis indicates that the answer is clearly "yes"

a) Let us assume that the person has taken at least a quick glance at the brand name products display sign above that aisle, and the person recognizes that he (she) needs to get a certain product such as a bottle of ketchup and the display shows Heinz Tomato Ketchup. The actual bottle of Heinz Tomato Ketchup product that is being displayed could be some distance away at the middle of the aisle or the far end. Nevertheless the case study demonstrates that the person on a statistical basis would more likely end up buying the displayed brand name product than the customer would some other brand name products which is the same basic product (i.e. ketchup). One obvious conclusion is that by having that brand name product on the display sign is it helps sell that displayed product, but there's **more to it than that.**

b) As a person walks down the aisle to find the ketchup, the fact that when the shopper arrives at the location where several brands of ketchup are located, he will likely pick the Heinz Tomato Ketchup, means that the shopper remembers the representation of

the Heinz Tomato Ketchup from the collage of eight to twelve products. This clearly demonstrates that when the shopper glanced up and saw the Heinz Tomato Ketchup the shopper is remembering (perhaps subconsciously) that particular image during the time period when he is walking down the aisle, and when he sees Heinz Tomato Ketchup bottle that matches the mental imagine, it's more automatic that he (she) takes it off the shelf and puts it into the shopping cart. The point is that the shopper didn't remember simply a bottle of ketchup, but the shopper remembers the graphic representation of the Heinz Tomato Ketchup.

#### 8. Using the Brand Name Presentation Display Together with the Word Sign.

The display sign of the present patent application could be used advantageously in connection with the usual word signage, and there may be a benefit of enhancing the effect of combining the more generic terms with the graphic representation as a "memory hook".

To relate this to my own experience, if I am planning a trip to the store and have four or five items I wish to purchase, I will generally not rely on my memory, but I will put these on list. Then I will be able to check these off my list when I get to the grocery store. If I didn't have any paper available to make a list, and I was trying to remember all those items, then I would likely have to have some kind of memory hooks, such as remembering what was missing the refrigerator, what I needed for the evening meal, or breakfast. But to rely on "brute memory" is to me risky.

To relate this to using the brand name product display signs in conjunction with the word signs at the aisle of the grocery store, the person would have the visual image of the various brand food products, graphics, packaging and all, and with the person's existing familiarity with at least some of these, that would provide some memory hooks. Therefore, when a person is viewing the combined signs (graphic representation of the products along with the word signs), the signs would be more likely to catch the persons attention and for the reasons given above would more likely be remembered.

#### 9. Other Benefits of the System of the Patent Application

Mr. Hughes has also asked me if there are any benefits beyond those that I have discussed above, and three additional items comes to mind.

a) Our case study demonstrates that when a brand name product is selected to be placed on the signage, the sales of that particular product itself are significantly increased. There is a certain amount of expense in preparing these graphic illustrations, and if a food company recognizes that its brand name product would be displayed, quite likely the company may desire as a minimum to share the expenses of preparing and displaying the graphic illustration of that company's product. That would mitigate the expense of preparing the display signs of the brand name product.

b) The second benefit of the system of my patent application relates to what we call in the grocery trade "impulse buying". This occurs when a person is shopping at the store for one item is

reminded that he needs certain other items. Although I don't have any hard statistics on this, it is apparent that the graphics on the display signs of this system do attract attention. Therefore, when a shopper sees these signs, not only does it remind that person that he needs to stock up on a certain product, but it also informs them that a product such as this is actually in the aisle where the sign is located. This would be much more likely to occur than if only the word sign was present.

c) The single greatest benefit is in speed and ease of use for all populations, but it is a particular benefit some demographic groups.

David Weber noted that it was appreciated by many of his English as a second language shoppers. I have heard similar responses from individuals with impaired eyesight, particularly the elderly. I was amused shortly after opening a recent remodel, where the signs were added, when a mother with a four-year-old child came to me and with a little laugh chided me for the signs, saying, "This is now the only store my daughter will let me shop at. She points out from the signs which aisles we need to shop and what we need to get."

10. Who Ultimately Benefits by the Use of the System of the Patent Application? Many parties find advantages in the system:

a) First, the shopper finds a benefit. In customer surveys, convenience and ease of shopping always rank highly. While a shopper often learns the location of products in departments around the perimeter of a store, the similarity of the dry and refrigerated

aisles can be such that locating specific products in the aisles can be difficult, even for a customer who regularly shops a store. As demonstrated this system helps customers zero in on needed products much more easily and quickly. It also increases the likelihood that the shopper will remember extra items that may not have been on their lists. Furthermore, it can be of particular benefit for elderly or those with compromised eyesight, for those who don't read, such as young children, or for those to whom English is not a first language.

b) Grocery and much of retail business is very competitive, so anything that can be provided to make shopping in one store a little easier than another can be critical. It has been said that grocery is a penny business, since many operators net 1% profit margin after expenses. A more accurate image, however, is that it takes 80% of a store's sales to cover the overhead, and then the store makes 5% margin on the remaining 20% of the sales. Therefore, any system that potentially attracts or retains an additional customer can be very valuable. Likewise, a system that can sell an additional item to a current customer is also very important. Add in the fact that the system is increasing sales of regular full price merchandise, not just "giving away" promotional products, and it is easy to see that this system can be very beneficial to the store operator.

c) Finally, all manufacturers are looking for ways to increase sales of their products. Like the retailer, manufacturers also have substantial overhead costs the must be covered, so increasing sales on fixed or lower rate overhead, allows them increased profitability on the incrementally added sales, and like the retailer this can be

particularly true if the added sales are at regular selling prices rather than promotional pricing. Therefore if the manufacturer sells product to the stores which use my system, with the result that more people come into the store, the food manufacturer would have more of its product sold. Further, it will increase sales of their products that are displayed on the signs.

In short, there are major benefits for the shopper, the retailer and the manufacturer.

11. The System of this Patent Application Clearly Fulfills In Part a Long Felt Need in the Grocery Store Industry.

a) Mr. Hughes has advised me that if an invention (or an alleged invention) helps fulfill a long felt need, and the invention or alleged invention has not been implemented in that industry, this is strong evidence of patentability. I believe that clearly fits the present situation.

b) Over the years that I have been in the grocery industry, there have been numerous studies both by the private industry and by other institutions relating to the primary drivers which cause a shopper to select one grocery store over another. In general, people do not regard shopping as a desirable experience, and many people regard it as what might be called "drudgery". Therefore the major concern of the shopper is the convenience of getting the task done. The number one concern relating to convenience is the location of the store, (i.e. how long is the trip to and from the store). The next

major consideration is that once the person is in the store how convenient is it to shop in that store.

c) For the reasons given earlier in this declaration, it has been demonstrated that the system in my patent application does clearly provide a significant convenience, and the customers that have been exposed to this system are pleased with having this added convenience.

d) For many years photographs or artistic renditions of products have successfully been used in marketing and as decoration. Similarly the need for directory signage has been obvious, and has been developed to include text, color keys, and iconic symbols. However, the marrying of the branded product photos into a directory system is new and very beneficial.

e) Therefore, in accordance with what Mr. Hughes has told me, the argument applies to the system of this patent application. This need for optimized convenience for the shopper has been inexistence during at least the last forty two years that I've been in this business. If this system of my patent application has been obvious to all of the people who have at least ordinary skill in the grocery store industry over the last forty two years, why hasn't someone done it before? I can only conclude that it is because the system in my patent application is not obvious.

f) Also, I would like to emphasize what is stated in the last sentence of paragraph "c" of section 4 that the only substantiated marketing mix difference between the East Wenatchee store and the other thirty-four stores was the addition of the new signage of the brand name products.

11. Comments on the Following Three U.S. Patents:

U.S. 5,297,685 (Ramey); U.S. 6,012,244 (Begum); and

U.S. 6,609,317 (Myers).

a) I have discussed each of these patents with Mr. Hughes, and I have also read the comments provided in the declaration of Mr. Weber on these same three patents. My conclusions are substantially the same as those expressed in Mr. Weber's declaration. However, in addition to that I would like to make the following comments relating particularly to the Ramey patent.

b) A very important feature of my system is that it takes advantage of the benefits that can be derived by presenting representations of brand name products, including the graphic design and the packaging associated with the brand name. These are designed to attract attention (as indicated in some detail earlier in this declaration). Also, a very important feature of the present invention is to provide information in such a way that it is remembered by the person shopping at the store. By having these displays of brand name products, the overall effect is that the shopping done by the person can be done more effectively, and also there is the convenience simply looking at the pictures (rather than looking only at the words).

c) Further, I want to emphasize another point which is stated in Mr. Weber's declaration, which is that the Ramey patent is directed almost solely to the arrangement of moldings and the like and these are positioned along a support rack in a building supply store. There

is a directory listing that is placed at the end of the aisle to identify each and every product and also its exact location on that isle. Therefore if this same theme would be used throughout the store in which this particular aisle is located, each individual aisle would need to have its own detailed directory giving location in that aisle.

d) With regard to the drawings which correspond to the cross sectional configuration of the moldings of the Ramey patent, I have discussed this with people in the building trade, and it would appear that the main reason for showing this cross section is to indicate exactly what the configuration of the product is. With these long pieces of molding extending to a substantial height, the person shopping for a molding would not even be able to observe what the cross section of the molding looks like. So the "pictures" or "drawings" in the Ramey patent are simply to give information as to its cross sectional configuration so that the person is clear as to what is being purchased. That of course has nothing to do with the system which I envision.

e) I further agree with Mr. Weber's statement that if I were to derive some way to apply the Ramey patent to a grocery store, the most obvious thing to do (based on what Ramey shows) would be to simply put the very detailed directory signs at the end of each aisle. If we were to provide a rather close grocery parallel to the to the Ramey signage system could be a sign at a point leading to the canned vegetable section of a store showing each and every product that is displayed for sale in the vegetable section. This could be grouped and color coded. The individual product art and description on this sign could demonstrate the particular attributes of each product, such

as the sieve size of the corn. Although not necessarily listed on the package, vegetables are graded by size or maturity of the product, where generally the younger, smaller and more tender product is considered more favorably. The individual product tag for each brand and type of food product would be on the more specific tag for that particular product. This is in no way the purpose of my system.

f) Then with regard to the Begum patent, U.S. 6,012,244, all that is shown teaches is putting a sign along the side of the aisle where there is a product probably immediately adjacent to that sign and also probably being sold at a reduced price. Again, if I were to look at the Begum patent and try to apply it over the whole store, I would simply have a lot of these signs positioned in aisles all over the aisles of the store. As pointed out in Mr. Weber's declaration, that would not be at all practical. Furthermore, it would only be of benefit to a person who is already in the vicinity of the sign. In contrast in the system of my patent application, a shopper in the lobby of a store or some distance from the aisles can easily find the location of products spread among a half dozen aisles or more.

g) Another way to picture how my system differs from the Begum patent is to view each from the perspective of what purpose they are each designed to achieve. The Begum patent is clearly designed to draw attention to a particular item or brand named product, and this frequently at the expense of other products or brands. The primary purpose of my proposed patent is to provide an entire system that helps an individual easily gain an overall orientation to a store and then to refine this down to the more specific areas where they will locate the particular products they seek. So

upon entering a store a quick scan will allow the shopper to begin to understand the overall layout, such as where the produce department may be located, but also the general layout of the dry product aisles, such as the general area of food items and the alternate area of non-food products. Then as the food section of the grocery aisles is approached, he (she) can refine the search by scanning the signs for more specific tips. If he has Raisin Bran cereal on his list by a quick visual scan of multiple signs, he will be able to identify the Cheerios graphic and thus the general area or aisle where cereal is located.

In summary there are distinct differences among patents and my system. Begum uses a graphic representation of a product to draw ones attention to that particular product as positioned for sale, and may offer minor value in locating the product, if one is already in the immediate vicinity. No indication is implied, and I doubt if any directory function was envisioned, about its systematic use for directory purposes.

Ramey is a valuable tool when used as designed to help an individual select among a number of similar but different products. It helps direct a shopper from a category view to the specific item selection, or a middle view to a micro perspective.

My system to the contrary provides an overall perspective of general locations, and helps a shopper “zero in” to the category, but then leaves the specific selection of product to the individual as the look at the product displays directly. It focuses from a macro perspective to

a middle view. What makes it unique from all other systems is that it is very quick and easy to use, intuitive to the shopper and provides additional assistance to particular groups, including those with deteriorating eyesight, those that do not read English well and young children.

I, Paul S. Enfield, hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and, further, that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application thereon.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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Paul S. Enfield